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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/884,783	06/19/2001	Harand Gaspar	F1002/2012P	2343
7590	01/04/2005		EXAMINER	
Kelly K Kordzik Winstead Sechrest & Minick PC POBox 50784 1201 Main Street Dallas, TX 75250-0784			LE, VIET Q	
			ART UNIT	PAPER NUMBER
			2667	
DATE MAILED: 01/04/2005				

Please find below and/or attached an Office communication concerning this application or proceeding.

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Office Action Summary	Application No.	Applicant(s)	
	09/884,783	GASPAR ET AL.	
	Examiner	Art Unit	
	Viet Q. Le	2667	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 07 October 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-12 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-12 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

2. Claims 1-12 are rejected under 35 U.S.C. 102(e) as being anticipated by Jason Alexander Trachewsky et al. (US 2001/0055311 A1), hereafter referred to as Trachewsky.

Regarding claim 1 and 6, Trachewsky disclosed a method for deferring transmission of a data packet over a home network that includes a host media access controller program and a media access controller (Trachewsky described a MAC controller comprising of a PHY, a MAC controller connected to computers executing programs. See fig. 4a), the method comprising the steps of: transmitting a signal from the host media access controller program to the media access controller (MAC) to transmit a data packet (Trachewsky described the carrier sense multiple access / collision detect (CSMA/CD) media access control method that he implemented in his invention MAC controller. See Fig. 30; See paragraphs 160-161); asserting a transmit

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start signal from the MAC (Trachewsky described the carrier sense multiple access / collision detect (CSMA/CD) media access control method that he implemented in his invention MAC controller. See Fig. 30; See paragraphs 160-161); receiving a carrier sense signal on the MAC indicating activity on a transmission medium, and delaying assertion of a final transmit signal when both the transmit start signal and the carrier sense signal are active, thereby avoiding packet collisions (Trachewsky described the carrier sense multiple access / collision detect (CSMA/CD) media access control method that he implemented in his invention MAC controller. See Fig. 30; See paragraphs 160-161).

Regarding claim 2 and 7, Trachewsky described a method further including the steps of: verifying on the host media access controller program that the MAC has deferred the transmit start signal by forwarding the carrier sense signal to the host media access controller program (Trachewsky described the carrier sense multiple access / collision detect (CSMA/CD) media access control method that he implemented in his invention MAC controller. See Fig. 30; See paragraphs 160-161), evaluating the carrier sense and the transmit start signal, and determining that the final transmit signal has not been not asserted if both the carrier sense and the transmit start signal are active (Trachewsky described the carrier sense multiple access / collision detect (CSMA/CD) media access control method that he implemented in his invention MAC controller. See Fig. 30; See paragraphs 160-161).

Regarding claim 3, 8 and 10, Trachewsky described a method further including the step of asserting the final transmit signal when the transmit start signal is active and

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the carrier sense signal is inactive (Trachewsky described the carrier sense multiple access / collision detect (CSMA/CD) media access control method that he implemented in his invention MAC controller. See Fig. 30; See paragraphs 160-161).

Regarding claim 4 and 11, Trachewsky disclosed a telephone wire as the transmission medium (Trachewsky described the MAC controller connected to other home networking devices through premises UTP telephone wiring. See paragraph 115).

Regarding claim 5 and 12, Trachewsky described a method further including the step of providing a physical layer between the MAC and the telephone wire and transmitting the carrier sense signal and the final transmit signal between the MAC and the physical layer (See fig. 4a).

Regarding claim 9, Trachewsky described a method for testing transmission deferral of a data packet over a home network that includes a host media access controller program and a media access controller (See fig. 4a), the method comprising the steps of: transmitting a signal from the host media access controller program to the media access controller (MAC) to transmit a data packet, asserting a transmit start signal from the MAC; receiving a carrier sense signal on the MAC indicating activity on a transmission medium, forwarding the carrier sense signal to the host media access controller program, delaying assertion of a final transmit signal when both the transmit start signal and the carrier sense signal are active, verifying on the host media access controller program that the MAC has deferred the transmit start signal by evaluating the carrier sense and the transmit start signal, and determining that the final transmit signal has not been asserted if both the carrier sense and the transmit start signal are active,

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thereby avoiding packet collisions (Trachewsky described the carrier sense multiple access / collision detect (CSMA/CD) media access control method that he implemented in his invention MAC controller. See Fig. 30; See paragraphs 160-161).

Conclusion

3. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

a) Eric Ojard et al. (U.S. 6,130,894), Off line broadband network interface.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Viet Q. Le whose telephone number is 571-272-2246. The examiner can normally be reached on 8 AM -5 PM.


If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Ricky Ngo can be reached on 571-272-3139. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

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RICKY NGO
PRIMARY EXAMINER